

SECOND REGULAR SESSION

SENATE BILL NO. 919

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS GIBBONS AND STOLL.

Pre-filed December 4, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

2560S.02I

AN ACT

To repeal sections 301.141, 301.142, and 301.143, RSMo, and to enact in lieu thereof four new sections relating to disabled license plates, with penalty provisions and an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 301.141, 301.142, and 301.143, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 301.141, 301.142, 301.143, and 304.601, to read as follows:

301.141. 1. Fraudulent procurement or use of disabled-person license plates or windshield placards shall be a class **[C]** A misdemeanor. [It is a class C misdemeanor for a physician, chiropractor, podiatrist or optometrist to certify that an individual or family member is qualified for a license plate or windshield placard based on a disability, the diagnosis of which is outside their scope of practice.]

2. Any physician or other health care practitioner authorized to issue a physician's statement or certificate to enable persons to obtain disabled license plates or windshield hanging placards pursuant to section 301.142, who issues, signs, or furnishes such statement or certificate to any person who does not meet one or more of the conditions set forth in subsection 1 of section 301.142, if there is no basis for the diagnosis given, or who issues, signs, or furnishes such statement for a condition, the diagnosis of which is outside the scope of such health care provider's license, is guilty of a class A misdemeanor.

301.142. 1. As used in [this section the term] sections 301.141 to 301.143, the following terms mean:

- (1) "Department", the department of revenue;
- (2) "Director", the director of the department of revenue;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

(3) "Other authorized health care practitioner", includes only chiropractors licensed pursuant to chapter 331, RSMo, podiatrists licensed pursuant to chapter 330, RSMo, and optometrists licensed pursuant to chapter 336, RSMo;

(4) "Physically disabled" [means], a natural person who is [a] blind [person], as defined in section 8.700, RSMo, or a natural person with medical disabilities which [limit or impair the] prohibits, limits, or severely impairs one's ability to ambulate or walk, as determined by a licensed physician or other authorized health care practitioner as follows:

[(1)] (a) The person cannot ambulate or walk fifty or less feet without stopping to rest due to a severe and disabling, arthritic, neurological, [or] muscular/skeletal, orthopedic condition, or other severe and disabling condition; or

[(2)] (b) The person cannot ambulate or walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or

[(3)] (c) Is restricted by [lung] a respiratory or other disease to such an extent that the person's forced respiratory expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or

[(4)] (d) Uses portable oxygen; or

[(5)] (e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; or

[(6) Is severely limited in the applicant's ability to walk due to an arthritic, neurological, or orthopedic condition.]

(f) A person's age, in and of itself, shall not be a factor in determining whether such person is "physically disabled" or is otherwise entitled to disabled license plates and/or disabled windshield hanging placards within the meaning of sections 301.141 to 301.143;

(5) "Physician", a person licensed to practice medicine pursuant to chapter 334, RSMo;

(6) "Physician's statement", a statement personally signed by a duly authorized person which certifies that a person is disabled as defined in this section;

[2.] (7) "Temporarily disabled person" [means], a [physically] disabled person as defined in this section whose disability or incapacity [can be] is expected to last [for not] no more than one hundred eighty days.

[3.] 2. Other authorized health care practitioners may furnish to a disabled or temporarily disabled person a physician's statement for only those physical

health care conditions for which such health care practitioner is legally authorized to diagnose and treat.

3. A physician's statement shall:

- (1) Be on a form prescribed by the director of revenue;
- (2) Set forth the specific diagnosis and medical condition which renders the person physically disabled or temporarily disabled as defined in this section;
- (3) Include the physician's or other authorized health care practitioner's license number; and
- (4) Be personally signed by the issuing physician or other authorized health care practitioner.

4. If it is the professional opinion of the physician or other authorized health care practitioner issuing the statement, that the physical disability of the applicant, user, or member of the applicant's household is permanent, it shall be noted on the statement. Otherwise, the physician or other authorized health care practitioner shall note on the statement the anticipated length of the disability which period may not exceed one hundred eighty days. If the physician or health care practitioner fails to record an expiration date on the physician's statement, the director shall issue a temporary windshield placard for a period of thirty days.

5. A physician or other authorized health care practitioner who issues or signs a physician's statement so that disabled plates or a disabled windshield placard may be obtained shall maintain in such disabled person's medical chart documentation that such a certificate has been issued, the date the statement was signed, the diagnosis or condition which existed that qualified the person as disabled pursuant to this section and shall contain sufficient documentation so as to objectively confirm that such condition exists. The physician or other authorized health care practitioner who issues or signs a physician's statement pursuant to this section shall maintain a log or list documenting to whom the physician or authorized health care practitioner issued such statements. Such log or list shall be available to the department of revenue and appropriate law enforcement officers in order to verify compliance with this section.

6. The medical or other records of the physician or other authorized health care practitioner who issued a physician's statement shall be open to inspection and review by such practitioner's licensing board, the department of revenue, and appropriate law enforcement officers in order to verify compliance with this section. Information contained within such records shall be confidential unless required for prosecution, disciplinary purposes, or otherwise required to be disclosed by law.

7. Owners of motor vehicles who are residents of the state of Missouri, and who are

physically disabled, owners of motor vehicles operated at least fifty percent of the time by a physically disabled person, or owners of motor vehicles used to **primarily** transport physically disabled members of the owner's household may obtain disabled person license plates. Such owners, upon application, accompanied by the documents and fees provided for in this section, **a current physician's statement which has been issued within ninety days proceeding the date the application is made** and [by] **proof of compliance with the** state motor vehicle laws relating to registration and licensing of motor vehicles shall be issued motor vehicle license plates for vehicles, other than commercial vehicles with a gross weight in excess of twenty-four thousand pounds, upon which shall be inscribed the international wheelchair accessibility symbol and the word "disabled" in addition to a combination of letters and numbers. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. [Handicapped parking places may only be used when a physically disabled occupant is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or collected by a properly marked vehicle which is parked for the sole use of the physically disabled person. No vehicle shall park in the access aisle. Such parking violation shall be an infraction. The use of a vehicle displaying a disabled license plate or windshield placard to park in a parking space designated for the disabled by a person not transporting the individual for whom the license or placard was issued shall be an infraction. Upon conviction thereof, violators shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars.]

4.] 8. The director shall further issue, upon request, to such applicant one, and for good cause shown, as the director may define by rule and regulations, not more than two, removable disabled windshield hanging placards for use when the disabled person is occupying a vehicle or when a vehicle not bearing the permanent handicap plate is being used to pick up, deliver, or collect the physically disabled person issued the disabled motor vehicle license plate or disabled windshield hanging placard.

9. No additional fee shall be paid to the director [of revenue] for the issuance of the special license plates provided in this section, except for special personalized license plates and other license plates described in this subsection. Priority for any specific set of special license plates shall be given to the applicant who received the number in the immediately preceding license period subject to the applicant's compliance with the provisions of this section and any applicable rules or regulations issued by the director. If determined feasible by the advisory committee established in section 301.129, any special license plate issued pursuant to this section may be adapted to also include the international wheelchair accessibility symbol and the word "disabled" as prescribed in [subsection 3 of] this section and such plate may be issued to any applicant who meets the requirements of this section

and the other appropriate provision of this chapter, subject to the requirements and fees of the appropriate provision of this chapter.

[5.] 10. Any physically disabled person, or the parent or guardian of any such person, or any not-for-profit group, organization, or other entity which transports more than one physically disabled person, may apply to the director of revenue for a removable windshield placard. **[to] The placard may be used in motor vehicles which do not bear the permanent handicap symbol on the license plate. Such placards must** be hung from the **front, middle** rearview mirror of a parked motor vehicle **and may not be hung from the mirror during operation. These placards may only be used during the period of time when the vehicle is being used by a disabled person, or when the vehicle is being used to pick up, deliver, or collect a disabled person.** When there is no rearview mirror, the placard shall be displayed on the dashboard on the driver's side.

11. The removable windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for each removable windshield placard shall be four dollars and the removable windshield placard shall be renewed every two years. The director may stagger the expiration dates to equalize workload. Only one removable placard may be issued to an applicant who has been issued disabled person license plates. Upon request, one additional windshield placard **[shall] may** be issued to an applicant who has not been issued disabled person license plates, **at the appropriate fee.**

12. A temporary windshield placard shall be issued to any physically disabled person, or the parent or guardian of any such person who otherwise qualifies except that the physical disability, in the opinion of the physician, is not expected to exceed a period of one hundred eighty days. The temporary windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for the temporary windshield placard shall be two dollars. Upon request, **and for good cause shown,** one additional temporary windshield placard **[shall] may** be issued to an applicant. Temporary windshield placards shall be issued upon presentation of the physician's statement provided by this section and shall be displayed in the same manner as removable windshield placards. A person or entity shall be qualified to possess and display a temporary removable windshield placard for six months and the placard may be renewed once for an additional six months if a physician's statement pursuant to **[subsection 6 of]** this section is supplied to the director of revenue at the time of renewal. **[The placard shall be renewable only by the person or entity to which the placard was originally issued. Any placard issued pursuant to this section shall only be used when a physically disabled occupant is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or collected by a properly marked vehicle which is parked for the sole use of the physically disabled person.**

6.] **13.** Application for license plates or windshield placards issued pursuant to this section shall be made to the director of revenue and shall be accompanied by a statement signed by a licensed physician **or other authorized health care practitioner** which certifies that the applicant, user, or member of the applicant's household is a physically disabled person as defined by this section. [The physician's statement shall be on a form prescribed by the director of revenue which shall include the physician's license number. If it is the professional opinion of the physician who issues the statement that the physical disability of the applicant, user, or member of the applicant's household is permanent, this shall be noted on the statement. In such instances, the applicant shall present the physician's statement which states that the applicant's disability is permanent to the director of revenue the first time the applicant applies for license plates or a removable windshield placard. The applicant shall not be required to obtain a new physician's statement each time that the applicant applies for or renews license plates or a removable windshield placard; but, the applicant shall present a physician's statement each time the applicant applies for a temporary windshield placard or renews a temporary windshield placard.]

14. The placard shall be renewable only by the person or entity to which the placard was originally issued. Any placard issued pursuant to this section shall only be used when the physically disabled occupant for whom the disabled plate or placard was issued is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or collected. A disabled license plate and/or a removable windshield hanging placard are not transferable and may not be used by any other person whether disabled or not.

15. At the time the disabled plates or windshield hanging placards are issued, the director shall issue a registration certificate which shall include the applicant's name, address, and other identifying information as prescribed by the director, or if issued to an agency, such agency's name and address. This certificate shall further contain the disabled license plate number or, for windshield hanging placards, the registration or identifying number stamped on the placard. The validated registration receipt given to the applicant shall serve as the registration certificate.

16. The director shall, upon issuing any disabled registration certificate for license plates and/or windshield hanging placards, provide information which explains that such plates or windshield hanging placards are nontransferable, and the restrictions explaining who and when a person or vehicle which bears or has the disabled plates or windshield hanging placards may be used or be parked in a disabled reserved parking space, and the penalties prescribed for violations of the provisions of this act.

17. Every new applicant for a disabled license plate or placard shall be

required to present a new physician's statement dated no more than ninety days prior to such application. Renewal applicants will be required to submit a physician's statement dated no more than ninety days prior to such application upon their first renewal occurring on or after August 1, 2005. Upon completing subsequent renewal applications, a physician's statement dated no more than ninety days prior to such application shall be required every fourth year. Such physician's statement shall state the expiration date for the temporary windshield placard. If the physician fails to record an expiration date on the physician's statement, the director shall issue the temporary windshield placard for a period of thirty days.

18. The director of revenue upon receiving a physician's statement pursuant to this subsection shall check with the state board of registration for the healing arts created in section 334.120, RSMo, or the Missouri state board of chiropractic examiners established in section 331.090, RSMo, with respect to physician's statements signed by licensed chiropractors, or with the board of optometry established in section 336.130, RSMo, with respect to physician's statements signed by licensed optometrists, or the state board of podiatric medicine created in section 330.100, RSMo, with respect to physician's statements signed by physicians of the foot or podiatrists to determine whether the physician is duly licensed and registered pursuant to law.

19. The boards shall cooperate with the director and shall supply information requested pursuant to this subsection. The director [may] **shall**, in cooperation with the boards which shall assist the director, establish a list of all [physicians' names] **Missouri physicians and other authorized health care practitioners** and of any other information necessary to administer this [subsection within the department of revenue if the director determines that such listing is necessary to carry out the provisions of this subsection] **section**.

[7.] 20. Where the owner's application is based on the fact that the vehicle is used at least fifty percent of the time by a physically disabled person, the applicant shall submit [an affidavit] **a statement** stating this fact, in addition to the physician's statement. The [affidavit] **statement** shall be signed by both the owner of the vehicle and the physically disabled person. The applicant shall be required to submit this [affidavit] **statement** with each application for license plates. **No person shall willingly or knowingly submit a false statement and any such false statement shall be considered perjury and may be punishable pursuant to section 301.420, RSMo.**

21. The director of revenue shall retain all physician's statements and all other documents received in connection with a person's application for disabled license plates and/or disabled windshield placards.

[8.] 22. The director of revenue shall enter into reciprocity agreements with other states or the federal government for the purpose of recognizing disabled person license plates

or windshield placards issued to physically disabled persons.

[9.] **23.** When a person to whom disabled person license plates or a removable or temporary windshield placard or both have been issued dies, the personal representative of [such person] **the decedent or such other person who may come into or otherwise take possession, of the disabled license plates or disabled windshield placard** shall return [the plates or placards or both] the same to the director of revenue under penalty of law. **Failure to return such plates or placards shall constitute a class A misdemeanor.**

24. The director of revenue may order any person issued disabled person license plates or windshield placards to submit to an examination by a chiropractor, osteopath, or physician, or to such other investigation as will determine whether such person qualifies for the special plates or placards.

25. If such person refuses to submit or is found to no longer qualify for special plates or placards provided for in this section, the director of revenue shall collect the special plates or placards, and shall furnish license plates to replace the ones collected as provided by this chapter.

[10.] **26.** In the event a removable or temporary windshield placard is lost, stolen, or mutilated, the lawful holder thereof shall, within five days, file with the director of revenue an application and an affidavit stating such fact, in order to purchase a new placard. The fee for the replacement windshield placard shall be [two] **four** dollars.

[11. Beginning after September 1, 1998, and prior to August 31, 1999, the director of revenue shall authorize a one-time recertification and review of all permanent disabled person license plates and windshield placards, including physician's license numbers and related information that the director has on file pursuant to subsection 6 of this section to determine if such numbers and information are current and correct. The director shall require the presentation of a new physician's statement and other information deemed necessary by the director to administer the provisions of this section. The recertification and review shall be conducted in a manner as determined by the director.

12.] **27.** Fraudulent application, renewal, issuance, procurement or use of disabled person license plates or windshield placards shall be a class A misdemeanor. It is a class [B] **A** misdemeanor for a physician, chiropractor, podiatrist or optometrist to certify that an individual or family member is qualified for a license plate or windshield placard based on a disability, the diagnosis of which is outside their scope of practice or if there is no basis for the diagnosis.

301.143. 1. As used in this section, the term "vehicle" shall have the same meaning given it in section 301.010, and the term "physically disabled" shall have the same meaning given it in section 301.142.

2. Political subdivisions of the state may by ordinance or resolution designate parking

spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142. Owners of private property used for public parking shall also designate parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142. Whenever a political subdivision or owner of private property so designates a parking space, the space shall be indicated by a sign upon which shall be inscribed the international symbol of accessibility and shall also include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card. The sign described in this subsection shall also state, or an additional sign shall be posted below or adjacent to the sign stating, the following: "\$50 to \$300 fine."

3. Any political subdivision, by ordinance or resolution, and any person or corporation in lawful possession of a public off-street parking facility or any other owner of private property may designate reserved parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142 as close as possible to the nearest accessible entrance. Such designation shall be made by posting immediately adjacent to, and visible from, each space, a sign upon which is inscribed the international symbol of accessibility, and may also include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card.

4. The local police or sheriff's department may cause the removal of any vehicle not displaying a distinguishing license plate or card on which is inscribed the international symbol of accessibility and the word "disabled" issued pursuant to section 301.142 or a "disabled veteran" license plate issued pursuant to section 301.071 or a distinguishing license plate or card issued by any other state from a space designated for physically disabled persons if there is posted immediately adjacent to, and readily visible from, such space a sign on which is inscribed the international symbol of accessibility and may include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card. Any person who parks in a space reserved for physically disabled persons and is not displaying distinguishing license plates or a card is guilty of an infraction and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars. Any vehicle which has been removed and which is not properly claimed within thirty days thereafter shall be considered to be an abandoned vehicle.

5. Spaces designated for use by vehicles displaying the distinguishing "disabled" license plate issued pursuant to section 301.142 or 301.071 shall meet the requirements of the federal Americans with Disabilities Act, as amended, and any rules or regulations established pursuant thereto. Notwithstanding the other provisions of this section, on-street

parking spaces designated by political subdivisions in residential areas for the exclusive use of vehicles displaying a distinguishing license plate or card issued pursuant to section 301.071 or 301.142 shall meet the requirements of the federal Americans with Disabilities Act pursuant to this subsection and any such space shall have clearly and visibly painted upon it the international symbol of accessibility and any curb adjacent to the space shall be clearly and visibly painted blue.

6. Any person who, without authorization, uses a distinguishing license plate or card issued pursuant to section 301.071 or 301.142 to park in a parking space reserved under authority of this section shall be guilty of [an infraction and shall be subject to a fine of not less than fifty dollars nor more than three hundred dollars] **a class A misdemeanor**.

7. Law enforcement officials may enter upon private property open to public use to enforce the provisions of this section and section 301.142, including private property designated by the owner of such property for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142.

8. Nonconforming signs or spaces otherwise required pursuant to this section which are in use prior to August 28, 1997, shall not be in violation of this section during the useful life of such signs or spaces. Under no circumstances shall the useful life of the nonconforming signs or spaces be extended by means other than those means used to maintain any sign or space on the owner's property which is not used for vehicles displaying a disabled license plate.

304.601. 1. Designated disabled parking spaces may only be used when a disabled person, who has been issued disabled license plates or windshield hanging placards pursuant to the provisions of section 301.142, RSMo, or by those states with which the director has entered into reciprocity agreements as provided in section 301.142, RSMo, is then, or immediately preceding being parked, was an occupant of the motor vehicle bearing the disabled license plate or windshield hanging placard or in cases where the motor vehicle bearing the disabled license plate or windshield hanging placard is then being used to deliver or collect one or more of the disabled persons for whom the disabled license plate or windshield hanging placard was issued.

2. The driver, or any occupant, of a motor vehicle bearing disabled license plates or a windshield hanging placard which is parked or has been observed to have been parking in a duly designated disabled parking space shall, upon request from any law enforcement officer or other duly constituted peace officer upon identification as such, produce the disabled registration certificate issued to the disabled person or entity as provided for in section 301.142, RSMo, or such other authorization to show that the driver, or any occupant of the vehicle is lawfully entitled to use a designated disabled parking space. The driver or any occupant

of the motor vehicle shall, in addition to the certificate, produce other identification with a photograph of the disabled person for whom the disabled plates or windshield hanging placard was issued.

3. If the driver, or an occupant, of a motor vehicle which is parked or has been observed to have parked in a designated disabled parking space is unable to, or cannot, produce the certificate as provided for in section 301.142, RSMo, or other proper authorization showing that the vehicle is being used, or has been lawfully parking in a disabled parking space, the operator is guilty of a class A misdemeanor. However, no person shall be found guilty of violating this section if the operator produces such a certificate to the court that was valid at the time of the citation for a person who was using the vehicle.

4. The windshield hanging placard shall only be used when the vehicle is parked in a disabled parking space. It shall be unlawful for any person to operate or drive a motor vehicle with a windshield hanging placard hanging from the inside rearview mirror.

Section B. The repeal and reenactment of sections 301.141, 301.142, 301.143 and the enactment of section 304.601 of this act shall become effective January 1, 2005.

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